

SENATE/HOUSE FILE _____
BY (PROPOSED IOWA PUBLIC
INFORMATION BOARD BILL)

A BILL FOR

1 An Act relating to the confidentiality of certain law
2 enforcement reports, records, and information under Iowa's
3 open records law.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 22.7, subsection 5, Code 2020, is amended
2 by striking the subsection and inserting in lieu thereof the
3 following:

4 5. a. Peace officers' investigatory records as follows:

5 (1) Information contained in an active investigatory record
6 or an inactive investigatory record, not including accident
7 reports filed pursuant to section 321.271, if the release of
8 information contained in such a record could reasonably be
9 expected to do any of the following:

10 (a) Interfere with law enforcement proceedings.

11 (b) Deprive a person of a right to a fair trial or an
12 impartial adjudication.

13 (c) Constitute an unwarranted invasion of personal privacy.

14 (d) Disclose the identity of a confidential source
15 including a state, local, or foreign agency or authority,
16 a private institution which furnished information on a
17 confidential basis, and, in the case of an investigatory
18 record compiled by a law enforcement agency in the course
19 of a criminal investigation or by a law enforcement

20 agency conducting a lawful national security intelligence
21 investigation, information furnished by a confidential source.

22 (e) Disclose techniques, procedures, and guidelines for law
23 enforcement investigations or prosecutions if such disclosure
24 could reasonably be expected to risk circumvention of the law.

25 (f) Endanger the life or physical safety of any individual.

26 (g) Disclose the identity of a reporting party maintained by
27 a law enforcement agency or the department of human services
28 relating to the investigation of child abuse, neglect, or
29 abandonment, unless the reporting party consents in writing
30 to the disclosure or the disclosure of the reporting party's
31 identity is required in any related administrative or judicial
32 proceeding.

33 (2) However, all of the following information contained in
34 an inactive investigatory record shall not be confidential:

35 (a) The time, date, specific location, and nature and

1 description of a reported crime, accident, incident, or arrest.

2 (b) The name, sex, age, and address of a person arrested,
3 except as otherwise provided by law.

4 (c) The crime charged.

5 (d) Documents given or required by law to be given to the
6 person arrested.

7 (e) Informations and indictments except as otherwise
8 provided by law.

9 b. Privileged records or information specified in section
10 80G.2.

11 c. Specific portions of electronic mail and telephone
12 billing records of law enforcement agencies if that information
13 is part of an active investigatory record.

14 d. For purposes of this subsection:

15 (1) "*Active investigatory record*" means the length of time
16 prescribed for commencement of prosecution or the finding of
17 an indictment or information under the statute of limitations
18 applicable to the crime that is under investigation has not
19 expired.

20 (2) "*Inactive investigatory record*" means the length of time
21 prescribed for commencement of prosecution or the finding of
22 an indictment or information under the statute of limitations
23 applicable to the crime that is under investigation has
24 expired.

25 (3) "*Investigatory record*" means information with respect
26 to an identifiable person or group of persons compiled by
27 a law enforcement agency in the course of conducting an
28 investigation.

29 (4) "*Law enforcement agency*" includes the attorney general,
30 the state patrol, an office of a county attorney or county
31 sheriff, or a municipal police department.

32 EXPLANATION

33 The inclusion of this explanation does not constitute agreement with
34 the explanation's substance by the members of the general assembly.

35 This bill relates to the confidentiality of certain law

1 enforcement reports, records, and information under Iowa's open
2 records law.

3 Current Code section 22.7(5) provides that peace officers'
4 investigative reports, certain law enforcement officer
5 privileged records or information, and specific portions
6 of electronic mail and telephone billing records of law
7 enforcement agencies if part of an ongoing investigation are
8 confidential, except where disclosure is authorized elsewhere
9 in the Code. However, the date, time, specific location,
10 and immediate facts and circumstances surrounding a crime
11 or incident shall not be kept confidential, except in those
12 unusual circumstances where disclosure would plainly and
13 seriously jeopardize an investigation or pose a clear and
14 present danger to the safety of an individual. Specific
15 portions of electronic mail and telephone billing records may
16 only be kept confidential if the length of time prescribed
17 to begin a prosecution or the finding of an indictment or
18 information applicable to the crime investigated has not
19 expired.

20 The bill amends Code section 22.7(5) to provide that
21 peace officers' active investigatory records and inactive
22 investigatory records, not including reports filed pursuant to
23 Code section 321.271 (motor vehicle accident reports), shall
24 be confidential, but only to the extent that the release of
25 information contained in such records could reasonably be
26 expected to (1) interfere with law enforcement proceedings; (2)
27 deprive a person of a right to a fair trial or an impartial
28 adjudication; (3) constitute an unwarranted invasion of
29 personal privacy; (4) disclose the identity of a confidential
30 source which furnished information on a confidential basis,
31 and, in the case of an investigatory record compiled by a
32 criminal law enforcement agency in the course of a criminal
33 investigation or by a law enforcement agency conducting a
34 national security intelligence investigation, information
35 furnished by a confidential source; (5) disclose investigative

1 techniques, procedures, and guidelines for law enforcement
2 investigations or prosecutions if such disclosure could
3 reasonably be expected to risk circumvention of the law; (6)
4 endanger the life or physical safety of any individual; or (7)
5 disclose the identity of a reporting party maintained by any
6 law enforcement agency or the department of human services
7 relating to the investigation of child abuse, neglect, or
8 abandonment, unless the reporting party consents in writing
9 to the disclosure or the disclosure of the reporting party's
10 identity is required in any administrative or judicial
11 proceeding.

12 The bill provides that the following information contained
13 in an inactive investigatory record shall not be confidential:
14 (1) the time, date, location, and nature and description of a
15 reported crime, accident, incident, or arrest; (2) the name,
16 sex, age, and address of a person arrested, except as otherwise
17 provided by law; (3) the crime charged; (4) documents given or
18 required by law to be given to the person arrested; and (5)
19 information and indictments except as otherwise provided by
20 law.

21 The bill amends Code section 22.7(5) to provide that
22 privileged records or information specified in Code section
23 80G.2 (law enforcement officer privilege) and specific portions
24 of electronic mail and telephone billing records of law
25 enforcement agencies if that information is part of an ongoing
26 investigation, shall be confidential. Specific portions
27 of electronic mail and telephone billing records of law
28 enforcement agencies are subject to the same confidentiality
29 restrictions as provided in current law.

30 The bill defines "investigatory record" as information with
31 respect to an identifiable person or group of persons compiled
32 by a law enforcement agency in the course of conducting an
33 investigation. An "active investigatory record" means the
34 length of time prescribed for commencement of prosecution
35 or the finding of an indictment or information under the

1 statute of limitations applicable to the crime that is under
2 investigation has not expired, and an "inactive investigatory
3 record" means the length of time prescribed for commencement
4 of prosecution or the finding of an indictment or information
5 under the statute of limitations applicable to the crime
6 has expired. The bill defines "law enforcement agency" as
7 including the office of the attorney general, the Iowa state
8 patrol, or the office of any prosecuting attorney, sheriff, or
9 municipal police department.